

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

SHERMAN JONES, #19450

Petitioner,

v.

2:05CV519

**GENE M. JOHNSON, Director of the
Virginia Department of Corrections,**

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on November 7, 2002, in the Circuit Court of Chesterfield County, Virginia, for one count of petit larceny (third offense), two counts of forging public records, and one count of eluding police. As a result of the convictions, petitioner was sentenced to serve five years imprisonment, with four years suspended on the petit larceny charge, and sentence on the remaining charges was suspended for a period of twenty years.

In February, 2004, as a result of new criminal charges, the Circuit Court of Chesterfield County revoked petitioner's suspended sentence. At a second show cause hearing on June 1, 2005, the Circuit Court again found petitioner in violation of the terms of his suspended sentence, and as a result, petitioner will be incarcerated for the next nineteen years.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b) (1) (B) and (C) and Rule

29 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on February 9, 2006. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court received from petitioner on February 24, 2006, objections to the report.

The Court, having reviewed the record and examined the objections filed by the petitioner and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed February 9, 2006. It is, therefore, ORDERED that the petition be DENIED and DISMISSED as time-barred pursuant to the statute of limitations. See 28 U.S.C. § 2244(d)(1). Judgment shall be entered in respondent's favor.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for the respondent.

/s/

Rebecca Beach Smith

Norfolk, Virginia

March 31, 2006